

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**May 11, 2005**

DIVISION ONE

B173649 Rick Auerbach, as Assessor etc. (Certified for Publication)

V.

# Assessment Appeals Board No. 1

For the County of Los Angeles,

Northern Trust Bank of CA, as Trustee, etc.

The judgment is reversed and on remand the trial court is directed to vacate its order denying the petition for writ of mandate and to enter a new order granting the petition for writ of mandate. The parties shall bear their own costs on appeal.

Mallano, Acting P.J.

I concur:      Suzukawa, J. (Assigned)

I dissent: Vogel (Miriam A.), J. (Opinion)

## DIVISION TWO

B177227 People (Not for Publication)

V.

Viera

### The Court:

Appeal is dismissed.

Doi Todd, Acting P.J., Ashmann-Gerst, J., Nott, J. (Assigned)

May 11, 2005 (Continued)

## DIVISION TWO (Continued)

[illegible]

The Court:

The judgment is affirmed.

Boren, P.J., Doi Todd, J., Ashmann-Gerst, J.

DIVISION THREE

Court convened at 9:30 a.m.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

Each of the following:

B178745	Children and Family Services v. Michelle M.
B177575	People v. Carraway
B178110	People v. Bailey
B177078	People v. Lepe
B177370	People v. Blackburn

Argument waived, cause submitted.

B176354 People  
v.  
Rodriguez

Merits:

Argued by A. William Bartz for appellant and by Michael J. Wise, deputy attorney general for respondent. Cause submitted.

DIVISION THREE (Continued)

B172225     Washington Mutual Bank, FA  
              v.  
              Cen Fed, Ltd., et al.

Merits:

Argued by Jacob N. Segura for appellants and by James S. Cooper for respondent. Cause submitted.

B174764     Kirsher, Winston & Boston  
              v.  
              Stern

Merits:

Argued by Bernard Grossman for appellant and by Kenneth M. Stern, in propria persona for respondent. Cause submitted.

B172737     Prospect Medical Group, Inc., et al.  
              v.  
              Northridge Emergency Medical Group

Merits:

Argued by Kenneth E. Johnson for appellants and by Andrew Selesnick for respondent. Cause submitted.

B175899     EOP-Marina Business Center, LLC, et al.  
              v.  
              Sherwood Partners, Inc.

Merits:

Argued by Michael S. Greger for appellants and by Diane Stanfield for respondent. Cause submitted.

May 11, 2005 (Continued)

DIVISION THREE (Continued)

B165756     Alan  
              v.  
              American Honda Motor Corporation, Inc.

Merits:  
Argued by John A. Schlaff for appellant and by Carol Boyd for respondent.  
Cause submitted.

Court recessed at 12:40 p.m.

Court reconvened at 1:45 p.m.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

Each of the following:

B173503     Estate of Lorenzo Howard, et al. v. Compton Police Department, et al.  
B177953     People v. Blackburn  
B179307     Children and Family Services v. Denise R.

Argument waived, cause submitted.

B174095     Villalobos  
              v.  
              Villalobos

Merits:  
Donald Gerber appears for respondent. Argument previously waived by the appellant. Argument waived, cause submitted.

B168648     Galicia, et al.  
              v.  
              California Department of Transportation

Merits:  
Argued by Gerald Peters for appellants and by Charles Belenky for respondent. Cause submitted.

DIVISION THREE (Continued)

B170755      Lewis Jorge Construction Management, Inc.  
                 v.  
                 Steve Olshan dba Olshan & Associates

Merits:  
Argued by John C. Goodman for appellant and by David L. Brandon for  
respondent. Cause submitted.

B172931      Bonaparte  
                 v.  
                 Herson

Merits:  
Argued by Michael H. Bonaparte, appellant in propria persona and by  
Albert Cressey for respondent. Cause submitted.

B171141      Swinerton Builders  
                 v.  
                 Pacific Design Center 1, LLC, et al.

Merits:  
Argued by Glenn E. Turner for appellant and by Eugene S. Alkana for  
respondents. Cause submitted.

B164117      Davis & Thomas  
                 v.  
                 Texaco, Inc., et al.

Merits:  
Argued by Daniel Gonzalez for appellants and by Charlotte E. Costan for  
respondent. Cause submitted.

Court adjourned.

May 11, 2005 (Continued)

## DIVISION FOUR

[illegible]

The judgment is affirmed.

Epstein, P.J.

We concur: Hastings, J.  
Curry, J.

B172899 People (Not for Publication)  
v.  
Bonilla

The sentence is reversed and the cause is remanded for resentencing and in all other respects the judgment is affirmed.

Curry, J.

We concur: Epstein, P.J.  
Hastings, J.

## DIVISION FIVE

B181800      Krystal L.      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(D.C.F.S., r.p.i.)

The petition is denied. Pursuant to CRC 24 (b) (3), this opinion shall become final immediately upon filing.

Mosk, J.

We concur:   Turner, P.J.  
                      Kriegler, J.

May 11, 2005 (Continued)

DIVISION FIVE (Continued)

B177786      Nancy Knupfer, as Trustee, etc      (Not for Publication)  
v.  
Flagstar Bank

The judgment is affirmed. Flagstar is to recover its costs on appeal.

Armstrong, J.

We concur:   Turner, P.J.  
                      Kriegler, J.

B171221      People      (Not for Publication)  
v.  
Willie Lee Hearse II

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.  
Kriegler, J.

DIVISION SIX

Court convened at 9:00 A.M.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. and G. Bents, Senior Deputy Clerk.

B159344 Bashkin  
B168013 v.  
Blasé

Argument continued to 1:30 P.M.

DIVISION SIX (Continued)

Each of the following:

B172324 Gonzales v. Morbark, Inc.  
B175458 Donati v. City of Santa Barbara

Argument continued to June, 2005.

B182009 Steven M. and Aisha I.  
v.  
Ventura Co. Superior Court (Human Services Agency)

Appearances:  
Robert R. Garcia for petitioner Steven M., by Carlos J. Najera for petitioner Aisha I. and by Patricia McCourt, Assistant County Counsel, for real party in interest. Presentation waived, cause submitted.

B174604 Sabiron  
v.  
Gregory

Merits:  
Argued by James E. Marino for appellant and by Glenn Feldman for respondents. Cause submitted.

B178333 Marriage  
of  
Streiter

Merits:  
Argued by Daniel A. Bergman for appellant and by Paul M. Volchok for respondent. Cause submitted.

Yegan, J. left the bench.



DIVISION SIX (Continued)

B176810      City of Santa Barbara  
                 v.  
                 Santa Barbara Superior Court  
                 (Janeway et al., r.p.i.)

OSC:

Presented by Janet K. McGinnis for petitioner and by Roland Wrinkel for real parties in interest. Cause submitted.

Court recessed at 10:45 A.M.

Court reconvened at 1:30 P.M.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. and G. Bents, Senior Deputy Clerk.

B178225      Child Welfare Services v. Frank R.

Argument waived, cause submitted.

B176536      Arvetis  
                 v.  
                 Euro-Classic Body Shop

Merits:

Argued by Bret A. Shefter for appellant and argument previously waived by respondent. Cause submitted.

B174066      Nazerian  
                 v.  
                 Dept. of Motor Vehicles

Merits:

Argued by Lee A. McCoy for appellant and by Dana T. Cartozian, Deputy Attorney General, for respondent. Cause submitted.

DIVISION SIX (Continued)

B181103     Deneane H.  
              v.  
              Santa Barbara Superior Court  
              (Child Welfare Services, r.p.i.)

Extraordinary Writ:  
Presented by Joseph D. Allen for petitioner and by Toni Lorian, Deputy  
County Counsel, for real party in interest. Cause submitted.

B169667     M & H Glass Enterprises, Inc.  
              v.  
              Rimar Trust

Merits:  
Argued by Matthew P. Guasco for appellants Rimar Trust et al., by Rex  
Heeseman for appellant American Title Co. and by Marcus S. Bird for  
respondents M & H Glass Enterprises, Inc. et al. Cause submitted.

Court recessed at 3:10 P.M.

Court reconvened at 3:20 P.M.

Present: Gilbert, P.J., Yegan, J., Perren, J. and G. Bents, Senior Deputy Clerk.

B159344     Bashkin  
B168013     v.  
              Blase

Merits:  
Argued by Debra Lynn Koven for appellant and by Michael John Hickman  
for respondents. Cause submitted.

Court adjourned.

DIVISION SEVEN

B167571      Ytuarte      (Certified for Publication)

v.

Superior Court, Los Angeles County  
(Kashani et al., r.p.i.)

Let a peremptory writ of mandate issue commanding the trial court to: (1) vacate its January 4, 2005, order denying petitioner's motion to reclassify the case and to transfer it from limited to unlimited jurisdiction; and (2) consider and decide petitioner's motion in light of the views expressed in this opinion. Petitioner is awarded costs.

Woods, J.

We concur:   Johnson, Acting P.J.  
                    Zelon, J.

B175213      Dunlap et al.      (Not for Publication)

v.

City of Rosemead, et al.,

The judgment is reversed and the cause is remanded for a new trial on the remaining contested issues. Appellants are to recover their costs on appeal.

Zelon, J.

We concur:   Johnson, Acting P.J.  
                    Woods, J.

B177905      Los Angeles County, D.C.S.      (Not for Publication)

v.

David S.

The judgment is affirmed.

Zelon, J.

We concur:   Perluss, P.J.  
                    Woods, J.

May 11, 2005 (Continued)

## DIVISION SEVEN (Continued)

B169591      Westfall      (Not for Publication)  
v.  
Viskocil

The judgment is affirmed. Respondent(s) to recover costs.

Zelon, J.

We concur: Perluss, P.J.  
Woods, J.

B174650 People (Not for Publication)  
v.  
Sanchez

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.  
Woods, J.

B164328      Bentley Industries, Inc.,      (Not for Publication)  
v.  
Anderson Lithograph Company

The judgment is affirmed. Each party to bear their own costs.

Johnson, J.

We concur: Perluss, P.J.  
Woods, J.

May 11, 2005 (Continued)

## DIVISION SEVEN (Continued)

B173031      People                          (Not for Publication)  
v.  
Boyd

The judgment is reversed and the cause is remanded to the trial court with the following directions:

As to the personnel records of Officer Mauk, the trial court shall conduct an in camera hearing on appellant's *Pitchess* motion, consistent with this opinion. If the hearing reveals no discoverable information in the officer's personnel records, the trial court is ordered to reinstate the original judgment and sentence and the judgment is ordered affirmed. If there is discoverable material in any of those records, it should be turned over to appellant so he may determine whether that material would have led to any relevant, admissible evidence he could have presented at trial. If appellant is able to demonstrate he was prejudiced by the earlier denial of discovery, the trial court should order a new trial. If appellant is unable to demonstrate prejudice, the trial court is ordered to reinstate the original judgment and sentence and the judgment is ordered affirmed.

As for Officer DeCarvalho's personnel records, the trial court shall reexamine "file" number 03-0243. If the file concerns a jaywalking citation issued by Officer DeCarvalho and the complainant is someone other than appellant, who claims he was "stopped for no reason," the file shall be ordered disclosed to appellant who can then determine whether he was prejudiced by the earlier denial of discovery. If appellant is able to demonstrate he was prejudiced by the earlier denial of discovery, the trial court should order a new trial. If appellant is unable to demonstrate prejudice, the trial court is ordered to reinstate the original judgment and sentence and the judgment is ordered affirmed.

Johnson, Acting P.J.

We concur: Woods, J.  
Zelon, J.

May 11, 2005 (Continued)

DIVISION SEVEN (Continued)

B164706      People                                  (Not for Publication)  
v.  
Wallace and Mack

The judgment as to Angela Wallace is reversed as to counts two and three and affirmed in all other respects. The matter is remanded for resentencing as to Wallace. The judgment and sentence as to Timothy Mack are affirmed. Upon issuance of the remittitur, the superior court clerk is directed to correct the abstract of judgment for Mack to reflect the correct number of custody credits (361 days of actual credit and 180 days of good time credit for a total of 541 custody credits.) The superior court clerk shall forward a corrected copy of the abstract of judgment for Mack to the Department of Corrections.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

B179047      Bombardier Capital, Inc.  
v.  
Podlipskiy

B181452      Bombardier Capital, Inc.  
v.  
Podlipskiy

Filed order consolidating above captioned appeals.

May 11, 2005 (Continued)

## DIVISION EIGHT

B175875 People (Not for Publication)  
v.  
Seamon Sweet III

The conviction is reversed and the case is remanded to the trial court. The trial court is to conduct an in camera review of Detective Ruize's file. If there is no discoverable evidence or if there is no prejudice to Sweat, the trial court is ordered to reinstate the judgment and sentence. If there is discoverable evidence and Sweat demonstrates prejudice, the trial court is ordered to order a new trial.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

B176675      Dauer      (Not for Publication)  
v.  
Hyatt Corporation

The judgment is reversed and the court is directed to enter a new order denying summary judgment. Appellant to recover his costs on appeal.

Rubin, J.

We concur: Cooper, P.J.  
Flier, J.

B174635 People (Not for Publication)  
v.  
Gomez

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Flier, J.

May 11, 2005 (Continued)

## DIVISION EIGHT (Continued)

B172484 People (Not for Publication)  
v.  
Thompson

The judgment of conviction is affirmed. The case is remanded for resentencing consistent with this opinion.

Cooper, P.J.

We concur: Boland, J.  
Flier, J.